

Remarks/Arguments

Claims 1-16 are pending. Claims 5-8 and 12-16 are indicated allowable. Claims 1-4 and 9-11 are rejected.

The Office Action maintains that claims 1-4 and 9-11 are unpatentable over US5,585,866 ("Miller") in view of US5,262,765 ("Tsumura"). Applicants respectfully submit that these claims are patentable over these two references because there is no teaching or suggestion, found in the references themselves, to combine the references as suggested by the Office Action. Applicants strongly disagree with the interpretation of the two references stated in the Office Action, as discussed below.

Both independent claims 1 and 9 recite a feature of when a selected program is determined to be an audio-only program, playing the audio-only content and displaying a stored animated image. There is no teaching or suggestion, found in the references themselves, to combine the two references to arrive at the feature cited above as suggested by the Office Action. As such, claims 1 and 9, and their respective dependent claims 2-4 and 10-11, are patentable over these two references.

In response to applicants' argument made in the response dated November 24, 2003, that displaying animated images in DMX virtual channel selection menus, such as those shown in FIGs. 43-45 of Miller, serves to distract a user, the Office Action states that a user may tune to another channel via numerical digital keys 42 to directly tune to a DMX channel without using the menus, and, therefore, the animated background would not distract the user from selecting a virtual channel. At 3. However, not using the menus (the graphical user interfaces) would be contrary to the intended purpose of

Miller because Miller provides these menus, so that a user can have a more powerful and convenient operating environment, and can more efficiently navigate through the electronic program guide. See col. 1, lines 13-17. Thus, the menus should be used to select a virtual channel and to better help a user select a virtual channel in each menu, animated background should not be added.

In fact, adding the animated images as taught by Tsumura would cause even more confusion because Tsumura teaches changing not only the background color of an image but also the foreground of the image. See Tsumura, for example, col. 5, lines 27-30.

In response to applicants' argument made in the response dated November 24, 2003, that the modification of Miller using the teaching of Tsumura is not possible because DMX music in Miller does not provide tempo data, the Office Action, citing col. 4, line 4-col. 5, line 18, states that Tsumura discloses that tempo data is not required because animations and color display data may be either selected based upon pitch data and tempo data, or automatically picked at random instead of using the synchronization image pulse generated by tempo detector 2. Applicants respectfully submit that the conclusion is incorrect. In fact, not only the system requires the tempo data, it also requires the pitch data, which the DMX music also does not provide.

The pitch data may not be used for selecting display color (see, for example, col. 4, lines 12-15), and the signal generated by a display image selector 43, which is derived from tempo data, may not be used for selecting the type of animation image (see, for example, col. 4, lines 16-30, and FIG. 2), but a signal C derived from the tempo data is always required by an image

gate 53 for controlling the frame feed according to the tempo of the music (see, for example, col. 5, lines 46-51), as discussed in more detail below. After all, without giving a user a video indication of the tempo, a karaoke machine would not be useful in helping the user keep up with the tempo of the music.

Tsumura's system uses the tempo data as animation image frame feed data and the pitch data as animation image color determination data. See col. 2, lines 45-50. A tempo detector 2 extracts tempo data from the MIDI data and generates a pulse A, which is synchronized with the tempo data, and outputs the pulse A to an image composition controller 4. See col. 3, lines 8-12, and FIG. 1. Similarly, a pitch detector extracts the pitch data, generates a signal B according to the pitch data, and outputs the signal B to the image composition controller 4. See col. 3, lines 13-16, and FIG. 1. The image composition controller 4 generates three control signals C, E, and F for controlling an image composer 5. See, for example, FIG. 1.

The signal C is a one-bit display timing trigger signal, which controls the timing of the output of the image signal and is derived from the tempo signal A. See col. 4, lines 4-9, and FIG. 1. The signal C is received by the image gate 53 in the image composer 5 to display a single image frame stored in an image buffer 52. See FIG. 1, and col. 5, lines 30-34 and lines 46-51. As such, the tempo data, from which the signal C is derived, is required by the system.

The signal E is an image color determination signal, which specifies the background and the foreground colors, and is derived from the pitch signal B. See col. 4, lines 9-12, and col. 5, lines 27-30. The signal E is required by the system to specify whether the determination of color is carried out in accordance with specified rules or by random selection. See, for example, col.

4, lines 12-15, and col. 5, lines 27-30. As such, the pitch data, from which the signal E is derived, is also required by the system.

The signal F is derived from the signal C, and is used by the image composer 5 to select one type of animation image from a plurality of animation image types stored in a image database 6. See col. 4, lines 16-24. The system, however, allows four different ways of selection. See col. 4, lines 32-45. The first way allows a user to manually select the images. See col. 4, lines 34-36, and FIG. 2. As such, the signal F is not required by the system.

Although the signal F is not required, the signal C from which the signal F is derived, however, is required as discussed above. Thus, both the tempo and the pitch data are required by the system disclosed in Tsumura. Since DMX music in Miller does not provide both the tempo and pitch data, the modification of Miller using the teaching of Tsumura would be inoperable. Therefore, there is no motivation to modify the system disclosed in Miller in the manner suggested in the Office Action.

In light of the fact that there is no motivation to combine the two teachings or modify the teaching of Miller incorporating the teaching of Tsumura, applicants respectfully submit that claim 1, and dependent claims 2-4, are patentable over Miller and Tsumura.

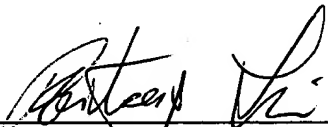
Applicants submit that the arguments made above are also applicable to claim 9, and submit that claim 9, and dependent claims 10 and 11, are patentable over Miller and Tsumura.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly, reconsideration and allowance are

respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,


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I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to [Mail Stop Non-Fee Amendment], Commissioner for Patents, Alexandria, Virginia 22313-1450 on:

5-11-04
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